



Department of Justice

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TEXAS HEDGE FUND MANAGER WILL PAY CIVIL PENALTY FOR VIOLATING ANTITRUST PREMERGER NOTIFICATION REQUIREMENTS

WASHINGTON — A Texas hedge fund manager has agreed to pay a \$250,000 civil penalty to settle charges that he violated premerger reporting requirements, the Department of Justice announced today.

The Department's Antitrust Division, at the request of the Federal Trade Commission, filed a civil lawsuit today in U.S. District Court in Washington, D.C., against James D. Dondero of Dallas for violating the Hart-Scott-Rodino Act of 1976 (HSR). At the same time, the Department filed a proposed settlement that, if approved by the court, will settle the charges.

According to the complaint, Dondero failed to comply with antitrust premerger notification and waiting period requirements of the HSR Act before exercising options in February 2005 to acquire stock of Motient Corp. (Motient), based in Reston, Va., where he served on the board of directors. As a result of exercising the options, Dondero and the investment fund that he controlled, Highland Capital Management L.P. (Highland), held voting securities of Motient valued in excess of the \$50 million HSR reporting threshold then in effect. The complaint alleges that Dondero was in violation of the Act from Feb. 28, 2005, through May 28, 2005.

Less than a year before the violation alleged in the complaint, Dondero made a corrective HSR filing relating to a failure to file regarding Highland's acquisitions of stock in another company. As part of that filing, Highland outlined steps that would be taken to avoid future violations.

The Hart-Scott-Rodino Act of 1976 imposes notification and waiting period requirements on individuals and companies over a certain size before they can consummate acquisitions of stock or assets above a certain value, which was \$50 million at the time of the violations alleged and is now adjusted annually to reflect changes in gross national product. A party is subject to a maximum civil penalty of \$11,000 for each day it is in violation of the HSR Act.

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